



## **Governor's Task Force on the Study of Kentucky's Alcoholic Beverage Control Laws**

**Licensing Committee Meeting – October 9, 2012 – 1:00 p.m.**

Committee Chair – Stephanie Stumbo, Kentucky ABC Malt Beverage Administrator

### **Minutes**

A meeting of the Governor's Task Force Licensing Committee was held October 9, 2012 at 1:00 p.m. at the offices of the Department for Local Government, 1024 Capital Center Dr., Ste. 340, Frankfort, Kentucky.

**Opening Remarks:** Committee Chair Stephanie Stumbo called the meeting to order and requested that proxies please introduce themselves at roll call and announce who they are representing. Ms. Stumbo opened by stating that the agenda was fairly aggressive and that she hoped that the committee accomplish items I, II, III, V, and VI of today's agenda. If possible, due to time constraints, she hoped the committee might try to work through item #4 (a) to get started on the possible bucket list items for consideration. Any items on the agenda that did not get addressed today will be addressed and discussed at the next meeting as top priority in addition of trying to finalize any licensing scheme recommendations they have. White boards created during the committee's last meeting were again presented for review, including all notes and bucket list items. Ms. Stumbo made a request that if anyone had additional items to add to the white boards for consideration, to please make sure they are added. She acknowledged that additional items had been added or requested by committee member emails. Several items were added since the last meeting and were reflected on the white boards.

### **Roll Call:**

**Committee Members Present:** – Jitter Allen, Larry Bond, Representative Clark, Commissioner Tony Dehner, Jennifer Doering, Gay Dwyer, Eric Gregory, John Harris, Senator Jimmy Higdon, Representative Dennis Keene, Lowell Land, Roger Leasor, Pete McLaughlin, Southern Wine and Spirits (representing Dan Meyer), Administrator Danny Reed, Administrator Stephanie Stumbo, Secretary Bob Vance, Adam Watson, Neil Wellinghurst.

**Committee Members Absent:** – Mayor Tom Bozarth, Dan Meyer, (but was represented by Pete McLaughlin).

**Others Present:** Stephen Amato, Bryce Amburgey, Dianne Andrews, Barbara Atwood, Jason Baird, Dick Brown, LaTasha Buckner, Jeff Busick, John Clay, Virginia Davis, William Dexter, Angie Donahue, Peter Ervin, Brian Fox, Christina Gordley, Shellie Hampton, Steve Humphress, Renee Jackson, Pam Jenkins, Scott Jones, Ryan Keith, Donna Kees, Carrie Klaber, Karen Lentz, Tyler Madison, Bert May, Tara McGuire, Tim McGurk, Gene McLean, Rich Ornstein, Mike Peters, Judy Piazza, Dave Pickerell, Sonya Semones, David Smith, Jason Trudeau, Julie Wagner, Ellen Williams, Janet Williams, Russ Woodward, Terri Woolfolk.

### **General Overview of Meeting Objectives:**

**Recap:** At the last meeting, the committee received reports, or second tier examinations of 8 other states, including their licensing schemes and their licensing types. The committee collectively reached a general consensus that although there were good aspects to the other states, Kentucky's overall licensing structure and the statutes supporting those licensing types is good. To move forward, the committee chose to look at what Kentucky has as a licensing scheme and see where improvements and efficiencies can be made, and to try to bundle license types in an effort to reduce the number of license types for streamlining. The committee did two brainstorming activities as reference to generate ideas and suggestions on where we could reduce licensing or bundle and any other licensing related items or issues that the committee thought we could put forth sound recommendations for improvement. Volunteers agreed to assist to review white board items, look at the existing licensing structure, and collapse down as much as possible to the narrowest licensing scheme (straw man), without unintended consequences or without giving privileges to another license that isn't authorized by the General Assembly, reducing privileges already authorized by General Assembly, or accidentally creating something that is not already in statute. This document was to serve solely as a starting point for discussion purposes not to be considered formal or final recommendations.

**Committee Goals:** Chair Stumbo reviewed the committee's main goals again to refresh the group. She stated the goals and objectives are to streamline and modernize Kentucky's licensing structure in a manner that would try to be at least revenue neutral (no deficit), while not creating any new license types that are not already authorized in some form by the General Assembly or granting new privileges, and most importantly, to preserve all current license types and privileges authorized by the General Assembly. The committee is also to look at and consider any existing conflicts or inconsistencies in the statutes where improvements may be made, or any suggestions or ideas related to licensing that would simplify our licensing system and make it more user friendly to our customers.

**Materials Distributed:** Stumbo discussed the handout materials to be utilized by the Committee and describe what they were and were not. This discussion included:

- **Proposed Combined License Types – DRAFT - for discussion purposes only**

- An extreme version of bundling of existing license types to the lowest degree without making changes to types of licenses, privileges, who can hold that license type, etc.; Meant to serve as “general license types” for discussion purposes;
- Not an intended as recommendations being proposed to the committee just a document to get the Committee process started;
- Created as a working document from what was proposed on the white boards at the last meeting and since, and looking at all remaining licensing types for a streamlined document for the committee to debate;
- Any license types that cannot be condensed down on top of each other, that are proposed to be bundled together, that the group collectively feels should not be bundled, those will be backed out and preserved as they are;
- Any items proposed that committee members don’t like need to provide explanation to the group for discussion and what the basis or reasons for the opposition is – if opposing an item then members need to please make recommendations of what would work instead.

- **License types in KRS 243.030 and KRS 243.040**

- Technically the 65 license types that exist in the statutes and regulations
- This handout is a corresponding document to the licensing spreadsheet and known as “Steve’s List”. Members will utilize this list of licenses in KRS along with the spreadsheet to easily identify what license type is what, what is it authorized to do and fee costs. On the spreadsheet there has been anew column added called “Steve’s numbers” the numbers in this column correspond to the numbers on this list of KRS licenses. This was done to better aide the committee in matching up the licenses.

- **Spreadsheet**

- Replaces the spreadsheet distributed at the last meeting – which had 84 license types. Stumbo briefly provided some examples that explained the differences between the initial spreadsheet provided and the new one which appeared to have a reduced number of licenses. Sunday and Supplemental licenses and

how they were identified on the original spreadsheet are a couple she identified to show where the changes were made.

- This version matches the number count of license types in statutes (65)
  - Due to ABC internal license codes – for example, in statute, a supplemental bar license is listed as one license type, whereas the Ky. ABC Licensing Division would have a code for all types of supplemental bar licenses, therefore increasing the previously counted number of license types (84)
- Describes all license types, sorted by license type, and includes definition, activities, fees, and what the General Assembly authorizes, etc. Has the new column which is entitled “Steve’s number” again, this number is to serve only as a guide to assist the Committee in matching license types in statute to those shown on the spreadsheet. The spreadsheet is organized by “like” licensing types such as all retail types, all transporter types etc.

**Disclaimer:** Chair Stumbo made committee members aware that prior to the meeting today, she was notified by some folks that couldn’t attend today’s meeting, but they had concerns or wanted to comment on the working draft documents. As those points come up, she or committee staff would attempt to share memo or emailed comments which will be read to the committee for the record. Stacy Kula submitted a memo addressing her opinions it includes her likes and dislikes of the working draft documents. Two additional emails were submitted with questions or concerns. If these particular questions or concerns aren’t raised by members present today, the emails will be read to the committee for discussion.

**Approval of Minutes:** A draft minutes from the committee’s September 11, 2012, were provided to all members for review on 9/17/12. Requested edits were made, and the final version containing revisions was submitted to committee members for review on 10/5/12. There being no further edits or revisions requested, Chair Stumbo called for a motion to approve the minutes and the motion carried. The minutes were approved by the committee members.

**Discussion and Review of Materials Distributed:**

Committee work began with the initial review of the “straw man” proposed licensing scheme for discussion. Stumbo reiterated this was a lot of material and would be a lengthy process and asked all members to carefully review and make comment.

## **Document #1 - Proposed Combined License Types Document**

- Document was produced by a volunteer working group that met on 9/27/12 and took items from white boards and combined recommendations for what license types could be bundled. Committee staff attempted with volunteers to create the “most reduced” version possible for discussion so that any items needed could be backed back out to preserve or avoid unintended consequences.
- Document is a generic series of license types for discussion only.
- Document shows license types that were similar or could be similar without changing any statutory authority requirements, privileges or prohibition in an effort to streamline and collapse:
  - Benefits of bundling or reducing license types: with so many types, it creates an enormous amount of work on the part of the applicant and the regulating agency;
  - No statutory provisions, quota system, or existing privileges were changed;
  - All items in this proposal are exactly what the law currently allows;
  - Framework and analogy for this proposal was based allowing applicants to have one license type if they meet certain statutory definitions as done in some other states.

Chair Stumbo asked that the committee carefully review the proposed bundled licenses presented today to be sure the committee is comfortable with moving forward with recommendations; compare and review proposal against existing statutes, privileges or prohibitions, making sure none were changed, reduced or overextended, and that the proposed bundles does not allow licenses to be issued to applicants not authorized to hold that type; consider any specific license types that should not be bundled; discuss issues openly; make necessary edits/changes to the working document to move the committee toward recommendations; and review and develop a corresponding fee structure. Discussions began with review of initial category types on handout. She stated that there was no “ownership” of the proposed bundled licenses but that she hoped that the document they leave here today with would be one created and determined by committee. She did not care the end result just they all items be carefully reviewed, fully debated and discussed and the “best decision” whatever that ended up looking like or being made.

## Category #1 – Producer/Supplier Level

**Producer Licenses** – all 8 producer licenses were preserved. (*Microbreweries and Small Farm Winery Licenses* are two other producer licenses, are not shown in this section and are listed under special licenses because their unique privileges and 3 tier exemptions exist only for them, but these 2 types were preserved and are truly specialty licenses regardless of being “producers”.)

### (1) *Distiller’s License* – already exist

- a. Previous recommendation from the committee to consider merge/bundle sampling and souvenir license which are specifically held by distiller’s and currently everyone with a distiller’s license can acquire these two additional licenses

After discussion Stumbo asked for further comments and called for a vote:

DECISION: proposal to bundle Sampling and Souvenir Licenses with Distiller’s License

No opposition for recommending bundling Souvenir License - passed

Sampling license will not be bundled – decision was made to leave this license separate when Sampling licenses came up again later in discussions

### (2) *Rectifier’s License* – already exist – KRS 243.120 states this license authorizes the licensee to purify or refine distilled spirits and wine and the holder of a rectifier’s license may purchase from a distiller and may sell to wholesaler - transactions permitted are listed in KRS 243.130 - currently 12 issued

- a. Proposed by working group to merge existing Blender’s License and call it a Rectifier’s License.
  - i. A Blender can do what a Rectifier can do
  - ii. Working group questioned the need for the Blender’s License – currently one issued

Rep. Clark asked how to distinguish between a rectifier and a blender. Virginia Davis explained that her opinion was a rectifier cannot produce and is listed under production, therefore merging blender with rectifier..... Rep.

Clark announced it was his position not to change items unless the committee could more clearly understand what each item is. Steve Humphress provided clarification that a Blender is not a producer and the statute says the Blender's license may be issued to a person who performs the functions of a rectifier only to a limited extent, but it deals with only Kentucky whiskey. The working group considered this in proposing to consolidate the two, allowing blenders to get a rectifier's license and continue to do what they do now. Secretary Vance recommended listing the reasons for combining blender and rectifier and reasons people might be against it. Rep. Clark requested a list of Rectifiers in the state.

Rep. Keene inserted additional questioning and stated a question he gets a lot is in regards to the Small Farm Winery licensees exceeded their production and no longer qualify as a small farm winery and have to become a "Vintner" and still wanting to maintain their tastings, wanted to know if this was changing. Stumbo clarified that was not changing all current requirements remain—going from a small farm winery and wanting to do production over the limits of small farm winery they would have to become a large winery, they technically become Vintner's, which have no current production cap but they would lose all special privileges afforded to only small farm wineries. It was asked if there was a reason not to combine a small farm winery wholesaler license with a small farm winery license. The clarification was that to preserve the 3 tier system, if you are a small farm winery operating as a winery, you aren't allowed to produce and distribute.

After discussion Stumbo asked for further comments and called for a vote:

DECISION: proposal to bundle Blender's and Rectifier's Licenses was tabled. Keep separate at this time until further clarification is received. Rep. Clark requested Steve Humphress obtain further clarification of the definitions and authorizations of both and provide that information to the committee – Tabled to re look at, at the next Committee meeting.

Stumbo offered to send out the additional information prior to the next meeting. Representative Clark disagreed and stated that no information should be provided in advance. Stated it would just provide individuals the opportunity to create issues and drama before the Committee could do its job.

**(3) Winery License** – called a Vintner's License in statute

- a. Working group proposed that a Vintner's License should be called a Winery License for simplification to applicants and the public so everyone understands
  - i. Small Farm Winery license issued for production of up to produce 50,000 gallons a year
  - ii. Over 50,000 gallon annual production gets a Vintner's License but they are a winery
  - iii. Statute states a Vintner's license authorizes the holder to engage in the business of making wine as a vintner at the premises designated in the license, to maintain an aging warehouse, and to transport for himself only any alcoholic beverage which he is authorized under the license to manufacture or sell.

After discussion Stumbo asked for further comments and called for a vote:

DECISION: proposal to rename Vintner's License to Winery License

No opposition for recommended name change – vote passed

**(4) *Brewer's* – already exist**

- a. no proposed changes

After discussion Stumbo asked for further comments and called for a vote:

DECISION: No changes, Passed

**(5) *Out-of-State Brewer's* - already exist**

- a. no proposed changes

After discussion Stumbo asked for further comments and called for a vote:

DECISION: No changes, Passed

**(6) *Limited Out-of-State Brewer's* - already exist – based on gallon production**

- a. no proposed changes



After discussion Stumbo asked for further comments and called for a vote:

DECISION: No changes, Passed

### **Distributor/Wholesaler Licenses**

(1) *Wholesaler's License* – exist for liquor and wine

a. No proposed changes

(2) *Small Farm Winery Wholesaler's License* – exist as specialty license with unique privileges – (~~production amounts cannot exceed 50,000 gallons per year~~ was struck from the proposal document and identified as a typo miss placed information as it only applies to only to a small farm winery and not a wholesaler). No proposed changes to license.

(3) *Distributor's License* – exist for beer. No proposed changes.

After discussion Stumbo asked for further comments and called for a vote:

DECISION: No changes to the three wholesaler's/distributor's licenses item Passed.

### **Storage Licenses**

(1) *Malt Beverage Storage* – supplemental license type – 3 types all requiring you to hold another malt beverage license

a. *Special off-premise retail storage license* – for the holder of a malt beverage retail license needing extra storage space for stock

i. Proposal to bundle to Malt Beverage Storage License and receive same statutory unique privileges, requirements, and prohibitions unique to special off-premise retail storage license – by schedule –

b. *Malt beverage warehouse license* –

i. Proposal to bundle to Malt Beverage Storage License and receive same statutory unique privileges, requirements, and prohibitions unique to malt beverage warehouse license – by schedule

*c. Distributor's storage license –*

- i. Proposal to bundle to Malt Beverage Storage License and receive same statutory unique privileges, requirements, and prohibitions unique to distributor's storage license – by schedule

After discussion Stumbo asked for further comments and called for a vote:

DECISION: proposal to the merge/bundle special off-premise retail storage license, malt beverage warehouse license, distributor's storage license into one malt beverage storage license- no opposition to recommendation, item Passed

- (2) Distilled Spirits/Wine Storage** – exist as both a stand alone and a supplemental license – some require holding a primary or master license, and some do not

*a. Special storage or warehouse license*

- i. Proposal to bundle to distilled spirits/wine storage license and receive statutory unique privileges, requirements, and prohibitions unique to special storage or warehouse license – by schedule

*b. Bonded warehouse license*

- i. Proposal to bundle to distilled spirits/wine storage license and receive statutory unique privileges, requirements, and prohibitions unique to bonded warehouse license – by schedule

After discussion Stumbo asked for further comments and called for a vote:

DECISION: proposal to merge/bundle special storage or warehouse license and bonded warehouse license into one distilled sprits/wine storage license-no opposition to recommend – Item passed

**Transporter's Licenses** – currently have 7 types – proposed combo license - proposal includes to bundle all remaining transporter's types (does not include air transporter as it is unique and did not fit with any of the other transporter licenses, but all other forms of transportation would fit):

(1) *Transporter's License* – propose combo for beer, distilled spirits & wine

a. *Transporter's license – distilled spirits & wine*

- i. Proposal to bundle into one transporter license and receive same statutory unique privileges, requirements, and prohibitions unique to transporter license for distilled spirits & wine – by schedule

b. *Transport permit-nonresident license*

- i. Proposal to bundle into one transporter license and receive same statutory unique privileges, requirements, and prohibitions unique to transport permit-nonresident license – by schedule

c. *Through transporter's license*

- i. Proposal to bundle into one transporter license and receive same statutory unique privileges, requirements, and prohibitions unique to through transporter's license – by schedule

d. *Freight forwarder's license*

- i. Proposal to bundle into one transporter license and receive same statutory unique privileges, requirements, and prohibitions unique to freight forwarder's license – by schedule

e. *Special beer transporter's license*

- i. Proposal to bundle into one transporter license and receive same statutory unique privileges, requirements, and prohibitions unique to special beer transporter's license – by schedule

f. *Transporter's license – beer*

- i. Proposal to bundle into one distilled spirits/wine storage license and receive same statutory unique privileges, requirements, and prohibitions unique to beer transporter's license – by schedule

Steve Humphress responded by using the catering statute KRS 243.033 as an example, which describes that one catering license allows you to do with it what is legally permissible in the area which you use it. Malt Beverage Storage licenses should work similarly. Applicants could get one malt beverage storage license, and depending on what type of primary malt beverage license you hold, that would dictate which privileges you get. Larry Bond asked for clarification and questioned how this would simplify the current process. Both Steve Humphress and Virginia Davis responded. There was some discussion of calling the proposed merged/bundled Transporter's License a "Ground Transporter's License." Rep. Clark opined that adding the word ground will cause loss of flexibility and opposed. The Committee agreed.

After discussion Stumbo asked for further comments and called for a vote:

DECISION: proposal to merge all 6 types into one transporter's license (will not include air transporter and after discussions and concerns related to use of the word "ground" the Committee determined and advised revision should not include/use the word "ground")

No opposition to recommendation, all remaining transporter licenses to be bundle as proposed-Item Passed

(2) *Air transporter's license* – propose to leave as separate type of transporter's license

After discussion Stumbo asked for further comments and called for a vote:

DECISION: proposal to keep air transporter's license separate, no changes. No opposition, Item Passed

## **Category #2 – Retail Level**

**Retail Drink Licenses** – includes all types of retail of licenses – types that are by the drink – 2 types are quota and non-quota. Proposal to add beer to the quota retail drink licenses.

(1) Quota **Retail Drink** License – exist for distilled spirits – proposal to add beer

### **a. Retail drink license**

i. Proposal to include beer in the license if the applicant is applying for a quota retail liquor drink. Beer would not be a

separate application schedule. This combo would NOT make retail beer a quota nor change any of the internal Department approval processes for quota licenses.

Discussion: Bundle beer with liquor drink quota? Concern with bundling by Wholesale Association. Humphress – recommend combo license to include beer. Stumbo repeatedly attempted to clarify this is the “by the drink” not package, that type ins in a later section. Lentz spoke did not like stated they had concerns – combo license – licensee paying for license they will not use. Larry Bond asked how many quota liquor drink licenses would that effect? What are we talking about here? What is it specifically that is the concern? How many who get a quota liquor drink license do not get beer? It was suggested to leave Liquor /wine as is and beer as is. Humphress disagreed stated this item should be looked at. Stated that with all of the different types of LD licenses and half of them already combo licenses this would address consistency and be an improvement. He further stated that almost if not all applicants for LD licenses already get beer too, it just makes sense to simplify this for the customer/applicants. Discussions continued Steve asked specifically what were the concerns or reasons for opposition? Representative Clark ended discussions stated Committee should move on. Table this item for next meeting. Asked that the Wholesalers get with the Department to discuss the issues and see if they could reach a compromise.

Recommended pass over and table the LD license including beer (combo) to next meeting.

- (2) Reviewed Non quota retail drink license – individual by statute, non quota “by the drink” – proposal bundles all remaining types into 4 types; Placeholder license name s as NQ1, 2, 3 & 4. NQ 4 – is the existing beer with no changes. The others are all of the different drink licenses /specialty types and pay different fees. These proposed 4 bundles drink license types were created to match existing licenses with similar fee costs together to not create any hardships on the applicant — beer need to be stand alone to accommodate and retain the beer only licenses across the state. It was further discussed that there are several existing combo drink licenses that are non-quota and have higher fees (these make up the NQ1 types). 4 types

preserves all unique privileges Committee looked at each type under the proposed 4 types of non quota drink licenses– *details in document* discussed

After extensive discussions Stumbo did “last call” on any comments or objections hearing none, called for a vote.

No objections- Motion to approve all 4 (NQ1,2,3 & 4 bundled Non quota by the drink licenses ) Passed

## **Retail Package Licenses**

### **Item #1 – Quota Retail Package License**

Proposal to include beer in the license if the applicant is applying for a quota retail liquor drink. Beer would not be a separate application schedule. This combo would NOT make retail beer a quota nor change any of the internal Department approval processes for quota licenses. This as mentioned before continues to preserve the quota license system. Stumbo stated this is similar to the above proposed bundle -Bundle beer with liquor/wine but is the **package** quota. Same concern with bundling was voiced by Wholesale Association – same issues as drink – stated concerns apply to package retail –

Chair Stumbo discussions: Now we are on to retail package, item #1, and we are back to the quota issue raised previously when we were attempting to discuss retail drink. So this is back to the issue that you guys voiced concern about and I assume that those concerns are the same as they apply here. Is it okay, because this is the exact same issue as the drink, it is a quota, it is a retail license, but this is not by the drink for consumption on premises now we are discussing package sales. This is package retail. Do we want to table the bundling of item #1 (this item) just like we did the by the drink, because the real arguments voiced were with package too? Is that accurate? Table this one... and let industry meet and see... if there is any compromise.... No compromise..... Again, I personally don't care if we back beer back out, but I need you all to have the conversation, so..... table this one for now? Two yes heard – (*appeared to be Sec. Bob Vance and Rep. Larry Clark*).

Stumbo states committee agreed (*no opposition heard on tape*)– Item tabled along with the previous to be discussed at next meeting.

### **Item #2 – Non-Quota Retail Package License**

Beer only license (package) to mirror liquor –. Would address inconsistencies. Would still allow beer package and drink together and all existing privileges. Just separates two sales types out. Would assist and improve enforcement issues. There would be nothing different

and fees would remain the same. Not bundled. Just separate the two existing privileges and beer types.

Chair Stumbo discussions: The next one is again beer only – again breaking it out to make it mirror liquor. Don't freak if you are a beer person. It shows a non-quota and that you can get a beer only package license just like a beer only drink license. The proposal does not change that. Everyone who gets these will still get these and with all of the privileges they are entitled to under a beer license. The thought was just to make it simpler to understand, anybody who has a retail license can also get a package license. Help enforcement and know what type of business sales they have selected to engage in... It was just keeping by the drink and by the package so it looks separate, but that is the same. Does showing it this way cause confusion? But it is basically unchanged. There's a beer license, you can have..... they're not incompatible.....you can hold a by the drink and by the package. So a restaurant can have by the drink, they have a retail beer license, and they want package so they can sell growlers, that would be permissible as it currently is. The converse, and I'm looking at Karen because she has liquor stores. They hold both like a combo already... it's a combo license, they sell by the package, but they also have by the drink and they have a product like the beer slushy that they do that is similar to an icee machine and they also do growlers. Many C-stores are getting into growlers or sell the slushy product as well. Those are ..... they could serve by the drink on premise if they want. But the slushy is not meant to be to-go items. They are for consumption on premises. This preserves both of those. Nothing different, we are just showing it as one's a by-the-drink and one is the package. They can hold both. There are no changes to what's permissible or who can hold what. They can have both and do both. Karen Lintz – and the fees will stay the same as...? Stephanie – we are trying to stay same cost. Have to look at.... May not work once we look at fees. Larry Clark – I make a motion that we approve number 2, this item and move on. (*can hear "others" in agreement*). Roger Leasor – one thing before..... there is a sampling license. Steph – it's a special license that you all hold that would be unique. Covered in different section..... Roger Leasor – It would not be bundled? Steph – It would not be bundled, unless you all decide that, but we did not bundle it. It's still held under that separate. Roger – ok. Larry Bond – I know this may be off point, but is this the area we need to talk about the licensee's that where the package places are selling out of styrofoam cups out of the to-go window the slushy but they don't have a per drink license because it's a malt beverage product? Steph – they .... most of the.....well there's two things.....some are selling liquor to go that enforcement has cited, and they hold a liquor package license but not the drink license, and that is occurring, it's a violation for not holding correct license and by the drink is not permissible with liquor package license. The malt that you are referencing, everybody who holds a retail package beer has a beer by the drink so these are permissible. The issue is they're not supposed to sell it in a foam cup out the drive thru. The current Board considers these "drinks" and for on premise consumption. You the customer, if you buy one

of those drinks, are who would be cited for violation of other laws such as open container or Drinking and driving/DUI, they are to be consumed on the premises and not to-go. That's an enforcement issue because right now, they hold the correct license; they're just not making people consume it on the licensed premises. Karen Lentz – Stephanie, you and I can talk about this separately, but that is very different when they first came on the market years ago, we worked with ABC and the legal team on how you do that legally out the drive-thru, and so that is different then I probably .... this group doesn't need to listen to it, but..... Stephanie- I have the latter but it never states it is for sale through drive through or the foam cups or tape is permissible.....Larry Bond – my concern was they are selling it out the drive-thru in a foam cup and putting a top on it and saying it's a "to-go"..... you don't buy it in a Styrofoam cup to drive home and not drink it in your car on the way. Karen – yes, it's supposed to have tapes on it. It's supposed to have, according to ABC..... this is like an 8 year old issue and if rules are changing, I probably need to know. Steph – I don't know how you wish me to answer to that....yes, it is an issue, it's also an enforcement issue on some cases and not licensing....and the old letter does not say what you are stating.....There are inconsistencies in statute or conflicts that are created where some of these combo businesses like C-store with pool halls are allowed to have minors on premises because they are the C-store but they also have by the drink occurring where minors should not be allowed to remain and they are not restaurants.....the real fix is outside the scope of the committee.

**Temporary licenses** – No changes to reduce privileges. Proposal to bundle all existing types except special auction license to simplify the temporary licenses into one license. It would be easier for the applicant they would just apply for (one) a temporary license and depending on the area in which the event was to be held it would authorize them for the corresponding alcohol sales (liquor, wine, beer) – The existing special temp. liquor & beer auction license is a stand alone license. Discussion briefly on why and that it would need to remain separate.

Proposed a Combo Temporary retail license – instead of applying for 3, apply for 1 and holder could select what type they want and the authorized sales for that area would be determined by the degree of wet where event is to occur. Three separate temporary licenses would now get 1, this would be more user friendly for the customers/applicants – does not change internally at ABC in regards to the administrators approval. Stumbo asked for any final comments and hearing none called item for vote. Motion to approve – no opposition – Item Passed.

### **“Special” licenses:**

Stumbo explained that they created this section on the proposed document to place truly specialty licenses in this category of retail license types. Special licenses are unique and did not fit in with other licenses and could and should not be bundled. Do not bundle and should be left as stand alone types. Each “special license” type has its own special exemptions, privileges, prohibitions and qualifications and therefore are truly unique stand alone license



types. No disagreement –Stumbo called for a vote-Motion to leave all special licenses existing as is and allow them to stand alone. No Objections –Motion Passed.

Proposed renaming two existing licenses into a license called “Special Non-beverage Alcohol License” to bundle the existing Special Industrial Alcoholic License and Special Nonindustrial License. There was no issue or objections voiced with bundling and renaming. Vote was called by Stumbo-Item Passed.

The next category of license types for discussion were those called “**Still Considering**” which needed discussion and had pending questions the Committee must consider and answer before any bundling could occur if it should at all.

### **License Types-“Still Considering”:**

Liquor/ wine – Special agent solicitor license and nonresident special agent solicitor are two separate existing license types– Stumbo asked if these could be bundled? Could they be eliminated and bundled into prime license or keep as is? Stumbo stated she thought this might have been a suggestion by Dan Meyer? Pete McLaughlin responded that the Liquor/Wine Wholesalers did not want these license types bundled into their primary Wholesalers license. Stated it was an opportunity to obtain background checks and information they need and would like to retain the solicitor license type. Stumbo asked for any additional comments hearing none decision was to retain both solicitor licenses separate as they are no bundling- No Objections- Item to retain as they are Passed

Out-of-state producers – Mr. Humphress was asked again about the differences between liquor and beer and concerns. Humphress discussed the differences and that with Liquor/wine no jurisdiction over them and no compliance with KY laws and existing issues with enforcement as a result to address– Member asked Steve to look into and report back suggestions on how to address this compliance issue. Comment was the state laws existing for a reason and everyone needs to comply and if not we need to be able to address it and go after them.

**Two (2) types of qualified historic sites** – Qualified historic site (DS) and the Qualified historic site (beer only)-both existing authorized license types -one is combo license, one beer only – to simplify this authorized license types for licensee/applicants propose to bundle these existing two types into one qualified historic site license – However this bundle will not change any of the specific authorized privileges or requirements of the existing two types-to obtain the license the existing requirements must be met either wet territory with qualified historic site or special election must pass-Stumbo ask for comments, concerns any possible issues? Hearing none she called matter to bundle two existing types to one to streamline-Item two bundle two types Passed and the bundled license shall remain as a stand alone “specialty license” and not be further bundled into NQ2.

**Limited restaurant licenses (LR50-100)**- Stumbo asked for discussion on bundling these licenses into the non-quota (NQ2)? Stumbo asked for identification of issues or concerns. Stumbo stated similar issue with these types as the Qualified historic site exists. After brief comments supporting the requirements and similarities with Qualified historic site and special elections-Stumbo called item to leave Limited restaurant licenses separate as specialty licenses and not bundle into the proposed non quota retail type NQ2- Item passed shall remain separate as special license types.

**Limited golf course license**- Stumbo advises this is similar issue as previously discussed in prior two license types, hearing that at direction of Rep. Clark item was to remain separate as a specialty license to be consistent with the previous decisions. Stumbo asked for comments or feedback from the rest of the Committee members, asked for any opposition-Hearing none Stumbo called item for vote-Item Passed- would not be bundled remain as special license type.

**Bottling house license and bottling house storage license** – existing licenses – Department does not have any issued. Comment posed what if we need it in the future? Stumbo asked for any additional comments, suggestions feedback- Rep. Clark propose to leave license types alone. Hearing no additional comments or concerns Stumbo called for a vote to retain both license types separately and as they are-No objections item Passed.

**Supplemental bar license** – existing license for bars and restaurants – fee schedule is based on number of bars wanted – Committee had several questions to clarify how it is handled by the Department now. Larry Bond asked if it would simplify process for licensees and how many current get extra supplemental bar licenses that would be effected? Questions in regards to how to adjust fees? Secretary Vance made the recommendation to bundle into the primary licenses. However, comments continued and after much discussion the group determined that it would raise the cost on some retailers. Discussions continued in regards to licensee capped at 5, should primary license entitle them to main bar plus one then licensee apply and purchase additional up to the 5 after that? Comment in regards to licensee having to “apply” for the supplemental license. Janet Williams clarified as to what was required in regards to a one page schedule and payment of the fee etc. One recommendation was to bundle but keep the fees the same as we do now so the applicant would just check and purchase the number of supplemental bar licenses they wanted in addition to the primary. After discussions Stumbo asked the group to vote on leaving Supplemental bar licenses separate as they are to be available to those who qualify and want them and would not create an cost increase on those who did not want them- Check on main application and utilized schedules only if request for supplemental occurred after or not at the time of issuance of the main license? Question never resolved-PENDING. Decision of the final vote in regards to bundling the license type into the eligible primary license type was Supplemental bar license would not be bundled would stay the same, no change.

The next section for discussion by the group was a section (for title purposes only) called “proposed **Eliminated Licenses**”. Stephanie reiterated that the committee is not getting rid of or eliminated any of these types but they are being or would be addressed by previous adjustments.

**Special Sunday retail drink** – existing license permits Sunday beer sales by ordinance. Propose Sunday drink license if ordinance passed and fee added to Sunday drink license – Committee decision after discussion was to NOT amend KRS 244.240 and get statute worded and consistent to the Sunday beer sales in KRS 244.480- After brief discussion Stumbo called item to remain as it is for a vote not adjustment-Item Passed- Shall remain as is.

**Souvenir liquor license** – existing license – page 1, item 1. All privileges authorized by this type shall be preserved as well as who is eligible to obtain such license. However, this license was previously approved to be bundled into the primary license. Decision was again confirmed to keep but roll into distiller’s license, combo in #1 Codify in applicable business authorized– Stumbo called for any final objections, hearing none item Passed.

**Hotel in-room license** – Discussion was to bundle with motel license the in-room license and to codify in applicable business authorized- Some comment in regards to concern that not all motels want this type of supplemental license afforded and by bundling it in it would increase for those who do not want nor utilize the privileges. Stumbo called for discussion- Decision was the item would remain as is and stand alone- Item Passed remains as a supplemental type to the Motel license, unchanged not bundled.

**Transitional license** – Stumbo explained that this type is authorized in “fee statute” and that language still existing in regulation to allow for “management agreements”. At a period in time the Department felt this license type was needed instead of allowing the buyer to operate under the sellers license with a management agreement in place. Discussions continue about many times the deal or sale fails to go through, under the Transitional license the owner/seller is required to surrender his license and if deal fails he cannot get it back seller/former licensee must totally reapply and re pay for the license he held. Virginia Davis further stated that often these are quota licenses, and may not be able back to the seller or the buyer finds out after the fact that taxes are due. It was stated that the licensing staff recommended going back to the management agreement and that it would make it easier. Comments from committee members included concerns with use of the management agreements. Sen. Higdon stated that it is the responsibility of the seller to assure all items are covered and it is also the responsibility of the buyer to do their own due diligence. Just good business practices. Rep. Clark stated that if license type remained the Department needed to clean up the regulation and get rid of it. Discussion continued by the group to get rid of transitional license and accept management agreement after additional concerns Stumbo asked for a vote to either retain the license or get rid of it and go back to accepting the

management agreement to allow the buyer to operate without closing the business during the sale. Sen. Higdon reminded the Committee of the liabilities with that approach. A committee member stated it is the parties to the agreement responsibility to assure all of those terms, conditions and liabilities are addressed in the management agreement. It was asked if the loss of the license type would be a loss in revenue for the ABC? Comment was made that the department could go back to charging the same \$50 processing fee instead of the current \$50 licensing fee, so eliminating this type would not result in a revenue loss for the Department. It was stated this would assist in current issues with both parties to these transactions. Rep. Clark stated whatever we did the Department needed to clean up the statute or regulation. Stumbo called matter for a vote to either leave the Transitional license as is or discontinue requirements of this license type and go back to the old process and accept management agreements as authorized in regulations- Comment was to go back to use of the management agreement-Stumbo called for any objections tot his proposal-no further comments made- hearing none-Item to discontinue use of Transitional licenses and to revert back to process in existing regulation of use of management agreement and charge \$50 (same amount as the existing licensing fee) in a processing fee, Passed.

**Sampling license** – Mr. Allen stated for the record that “they” were not opposed to the expansion of the sampling license to permit the sampling of beer in the State. He further stated he realized that this was creating or authorizing a new privilege but that they wanted to put that out there. Stumbo agreed that the request to expand beer sampling was out side the scope of the Task Force as it was authorizing new privileges not approved by the general assembly but the request would be “so noted”. Discussion was raised again about the Committee previously bundling sampling licenses and its privileges into the Distillers’ license as had been requested. Next representatives for retailers posed several concerns and questions in regards to package retailers who are permitted to hold this supplemental license type. Committee member stated that not all licensees qualified to hold this license type would want its privileges bundled with primary liquor /wine license. Most would not want to pay the additional costs. After continued discussion Stumbo asked the Committee if they had changed their previous position on bundling Sampling licenses into the primary license types eligible to hold it. Comments were in support, that in light of the retail concerns that they were seeking to have sampling licenses remain separate not bundled into any primary licenses. Stumbo asked for clarity on the bundling of the sampling license into the Distiller’s. Rep. Clark stated treat all the same, it is one license type- be consistent so we don’t create confusion. Mr. Bond agreed. Stumbo recalled item for final vote- Decision was that sampling licenses would not be bundle into any primary license type as it is a stand alone license and because of lack of consistence would remain a stand alone supplemental license type- Item Passed.

**Brew on premises license** – existing license – Stumbo stated license type exists ONLY in regulation not in statute. Stated the Department does not have any of these issued. After brief

discussions by the group it was agreed to keep license type in case of future needs and put in statute.

**Special nonbeverage vendor's license** – propose to delete the existing Industrial Alcohol license –and amend statute, require for the bundled “Special non beverage alcohol license” to require all purchases from a licensed KY Wholesaler/Distributor. Stumbo asked for any discussion, hearing now called for vote-Item Passed.

Stumbo thanked the group for working through the licensing document. She advised as expected they were out of time and would not get to some key agenda items. Stumbo referenced the “Bucket list” (Agenda item IV), she asked if the Committee if anyone had any new items to add to the list to please be sure to do so on the white boards prior to leaving. She advised that members should look at the list because new items had been added by request of Committee members via email and that she had taped those emails onto the white boards so they could see the email and who submitted the items. She reminded the group that the licensing items for consideration on the bucket list should be items that are statutory language in conflict that need to be cleaned up, items where statutory inconsistencies exist, items which are current problems or issues (need clarification etc.) or items that would simplify the licensing process. Stumbo stated all the items would be discussed at the next committee meeting for consideration and determination as to any recommendation or no action. Stated again to the group to make sure they add any items they strongly wished to be discussed on the sheets provided prior to next meeting.

Stumbo advised that the Licensing Committee should anticipate meeting more frequently to get important volume of work done within the timelines. She stated the Committee had approximately 45 days remaining to complete its recommendations and get a draft document for review and final approval. Stumbo announced that the upcoming Task Force public forums along with committee meeting dates can be found at [www.abc.ky.gov](http://www.abc.ky.gov) and are:

**Next “Special” Licensing Committee meeting- Tuesday, October 23, 2012, 9:00 a.m. to 11:00 a.m., at the Department for Local Government Conference Room, 1024 Capital Center Drive, Frankfort, KY 40601**

**Next “Regular” scheduled Licensing Committee Meeting-Tuesday, November 11, 2012, 1:00 p.m. to 2:00 p.m., at the Department for Local Government Conference Room, 1024 Capital Center Drive, Frankfort, KY 40601**

**Full Task Force public forums are scheduled on:**

- Monday, October 15, 2012, Center for Rural Development, 2292 U.S. 27, Somerset
- Monday, October 16, 2012, Northern Kentucky University, Griffin Hall, Louie B. Nunn Drive, Newport

- Thursday, October 18, 2012, Madisonville Community College, Badgett Technology Center, Quad Room, 2000 College Drive, Madisonville

Stumbo stated on behalf of the Governor's staff organizing the forums she needed a show of hands of what members thought they would attend so that room size could be verified. Ms. Andrews with the Governor's staff acknowledge the responses.

Stumbo closed by thanking the group for their participation and patience through the process. She advised next meeting would also include a volume of work to accomplish to keep the committee moving forward and on track. She thanks everyone for the debate and stated that she hopes that through the kind of discussions the Committee would put forth the best recommendations for improvements.

**Meeting was adjourned.**